

803 KAR 2:220. Employees' refusal to work when dangerous conditions exist.

RELATES TO: KRS 338.121(3)(a)

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: The Commissioner of the Department of Workplace Standards has the authority and responsibility for promulgating administrative regulations necessary to accomplish the purposes of this chapter. The function of this administrative regulation is to afford employees the right to refuse to be exposed to dangerous conditions without subsequent employer discrimination.

Section 1. Employee Refusal to Work. (1) Where an employee is confronted with a choice between not performing assigned tasks or being subjected to death or serious injury arising from a dangerous condition at the workplace, such employee may refuse in good faith to expose himself/herself to the dangerous condition. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person under the same or similar circumstances then confronting the employee would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought corrective action from his/her employer, and been unable to obtain a correction of the dangerous condition.

(2) When an employee in good faith refuses to expose himself/herself to a dangerous condition at the workplace he/she shall not be subjected to subsequent discrimination by the employer.

(3) Provided, however, that the provisions of this administrative regulation shall not apply if it is found that the employee acted unreasonably or in bad faith. (9 Ky.R. 89; eff. 8-11-1982; Recodified from 803 KAR 2:190, eff. 4-19-84; TAm eff. 8-9-2007; TAm eff. 9-8-2011.)